REMARKS

This response is intended as a full and complete response to the final Office Action mailed February 27, 2006.

Claims 1, 5-8, and 33-35 are pending. Claims 14-30 were previously withdrawn. Claims 1 and 5 are amended and new claims 33-35 are added. Applicants respectfully request consideration of new claims 33-35.

Applicants traverse all of the rejections in the Office Action and respectfully request reconsideration and passage of the claims to allowance for the following reasons.

Interview Summary

Agreement was reached in a telephonic interview with Examiner England on May 4, 2006, that claims 1, 5-8, and 33-35, as amended above, were allowable over the art of record.

Claims 1, 5 and 6 patentable over Eyal/Hunter under §103

The Office Action rejected claims 1, 5, and 6 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,484,199 to Eyal ("Eyal") in view of U.S. Patent No. 6,647,417 to Hunter et al. ("Hunter").

According to MPEP §2143, to establish a *prima facie* case of obviousness under §103, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The combination of Eyal and Hunter fails to establish a *prima facie* case of obviousness, because the combination does not teach or suggest all of the claim

elements. For example, the combination does not teach or suggest the claimed way of calculating ratings or the claimed helper servers between the content server and the clients.

Claim 1 recites, *inter alia*, "calculating a helper hotness rating at each of a plurality of helper servers (HSs) for each of a plurality of SM objects that are hosted at a content server connected to the HSs in a network, each helper hotness rating being a total number of client requests for a particular SM object divided by a time period during which the client requests are received" and "calculating a server hotness rating at the content server for each SM object, each server hotness rating for the particular SM object being a sum of the calculated helper hotness ratings received from all of the HSs"

The combination of Eyal and Hunter does not teach or suggest the claimed way of calculating ratings. Hunter does not disclose how to calculate the rating. Eyal discloses a rating that is a real number. (See Eyal, col. 12, lines 37-67.) Eyal discloses that an old rating based on user voting is updated by calculating a new rating that is a weighted average of user votes. (See Eyal, col. 30, lines 13-67.) In Eyal, the rating is based on user votes, while the claimed invention has no voting and the ratings are based on access. In Eyal, user votes determine the rating, while the claimed invention does not require active user voting, but rather passively calculates the ratings. The claimed invention is, therefore, more objective and less subjective. Furthermore, the claimed invention is more efficient.

The combination of Eyal and Hunter does not teach or suggest the claimed helper servers (HSs) between the content server and the clients.

Claim 1 recites, *inter alia*, "the HSs being interposed between the content server and the clients".

As can easily be seen looking at the figures of Eyal and Hunter, both references disclose sending content directly to users, in contrast to the claimed helper servers intermediating between the content server and the clients. In Figure 2 of Eyal, the user terminal 210 runs the media location and playback interface module 270 that is accessible over the Internet. In Hunter, music is transmitted via satellite to each customer's computer-based user station. (See Hunter, abstract.) This is illustrated in

Hunter, for example, in Figure 1 where satellite receiver link 30 is directly from the satellite to the download module 120 of the user station 28 and in Figure 6 where the satellite downlink goes directly to the household receiver.

Therefore, claim 1 is patentable over the combination of Eyal and Hunter. For the same reasons, claim 5 is also patentable over the combination of Eyal and Hunter.

Claims 6-8 and 33-35 depend, directly or indirectly, from claims 1 and 5 respectively and, thus, inherit the patentable subject matter of claims 1 and 5, while adding additional elements and further defining elements. Therefore, claims 6-8 and 33-35 are also patentable over Eyal and Hunter under §103 for at least the reasons given above with respect to claim 1.

Claims 7 and 8 patentable over Eyal/Hunter/Saxena under §103

The Office Action rejected claims 7 and 8 under 35 U.S.C. §103(a) as being unpatentable over Eyal/Hunter as applied to claim 5, and in further view of U.S. Patent No. 5,805,821 to Saxena et al. For the same reasons given above, claims 7 and 8 are patentable over the combination of Eyal and Hunter. Furthermore, Saxena also does not teach or suggest the claimed way of calculating ratings or the claimed helper servers between the content server and the clients. Therefore, claims 7 and 8 are also patentable over the combination of Eyal/Hunter/Saxena.

CONCLUSION

For the foregoing reasons, Applicants respectfully request reconsideration and passage of the claims to allowance. If, however, the Examiner believes that there are any unresolved issues requiring any adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Lea Nicholson or Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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